

GOVERNMENT OF ANDHRA PRADESH

ABSRTACT

Suits – Arbitration – An amount of Rs.82,00,000/- as full and final settlement of Arbitration Award dated: 29.01.2001 in OP Nos 42,43 & 44 of 2003 on the file of the Hon'ble Principal District Judge Court, Kadapa in respect of the sub work relating to “ Construction of spillway including stilling basin from 37.625 M to 78.00 M on left flank of Cheyyeru Project in Rajampet Mandal of Kadapa District” was entrusted to M/s Balaji Construction Company, Sainagar, Ananthapur, vide Agreement Nos 45, 46 and 47/, SE/81-82, dated 13.07.1981- Sanctioned - Orders - Issued.

IRRIGATION&CAD (IRRIGATION WING: ARBITRATION) DEPARTMENT

G.O.Rt. No. 901

Dated: 10.09.2013.

Read the following

1. From the Hon'ble High Court of A.P Hyd Judgments dated: 29.12.2009 in CRP No. 169, 170 of 2010 and dated: 10.02.2010 in CRP NO. 531 of 2010
- 2.. From Smt. B.Ratnalamma, W/o late Sri B. Subba Rayudu representations, dated:08.02.2010 and 23.02.2010.
3. From the ENC, Med.Irrgn., Hyd., Lr.No.ENC/MED/ DCE3/ OT1/ARB.29-1, 2 & 3/2010, dated.09.09.2010.
4. From the ENC, Med.Irrgn., Hyd.,Lr.No.ENC/MED/ DCE3/ OT1/ARB.29-1/2010, dated.18.6.2012.

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ORDER

The Engineer-in -Chief, Medium Irrigation, Hyderabad in his letter 3rd read above, has reported that the three sub works relating to “ Construction of spillway including stilling basin from a) From 37.625 M to 54.375 M b) From 54.375M to 71.125 M and c) From 71.125 M to 78.00 M on left flank of Cheyyeru Project in Rajampet Mandal of Kadapa District” was entrusted to M/s Balaji Construction Company, Sainagar, Ananthapur, vide Agreement Nos 45, 46 and 47/, SE/81-82, dated 13.7.1981.

2. On contesting to A.P. Legislative Assembly, the Contractor, M/s. Balaji Construction Company, has entered into tripartite Agreement in favour of Sri B.Subbarayudu, Contractor, 3/467 Holmospet, Proddatur, Kadapa District, for executing the above works.

3. Originally, the spillways were located on both sides of the river with 4 spans on left side and 2 spans on right side. During the course of execution i.e. on 29.02.1982, the consultative Committee of Experts were suggested to locate the entire spillway on left side only, due to presence of cavernous nature of rock in the foundations of the Spillway. The change of location of Spillway, resulted in increase in quantities. The Contractor agreed to execute the above (3) works. Accordingly, Government vide G.O.Ms.No.281 I & CAD

(P.T.O)

(Irri.V) Deptt., dated 20.06.1984 have issued orders by entrusting the additional items of work to the original Contractor. Due to these changes, the work got extended for 6 years for which necessary extension of time was granted.

4. During the course of time i.e after execution up to 6/86, the Contractor has requested the department for payment with SSR rates of 1985-86 or 1984-85 plus tender percentage for the work done beyond (+) 190.00 elevation. Accordingly, the Government have issued orders vide G.O.Ms.No.149, I & CAD (Irri.V) Deptt.,dated.18.05.1987, duly allowing the SSR rates of 1984-85 for the balance work to be done beyond 30.06.1986 at EL (+) 190.00 to (+) 206.65 in relaxation of para 176 of APWD "D" code.

5 But, the contractor did not turn to accept the supplemental agreements and proceeded on arbitration with the following claims:-

1. Payment for work done.
2. Compensation for idle period of machinery.
3. Rates for additional items.
4. Deduction of curing charges from the bills.
5. Loss of profit.
- 6 Interest from 10/1989 and costs

6. The Department has not accepted the claims of the Contractor. After completion of the works, the Contractor has approached the Hon'ble High Court for appointment of a sole Arbitrator. The Hon'ble Court has appointed the sole Arbitrator on 14.07.1999 and he has passed the awards in all the above (3) works on 29.01.2001. The Contractor has filed OP Nos 42,43,44 of 2003 on the file of the Court of the Principal District Judge Court, Kadapa to make the award as rule of Court.

7. The Hon'ble Principal District Judge Court, Kadapa while allowing the petitions has passed the decrees on 08.11.2005 in terms of the Arbitration awards 29.1.2001 in OP Nos.42,43,44 of 2003. which are as follows:-

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| 1 | AOP.No. 42/03 | Rs.45,89,755 (with 18% interest on 15,12,525 upto the date of decree) and 6% interest from the date of decree till the date of realization. |
| 2 | AOP.No. 43/03 | Rs.42,89,647 (with 18% interest on 14,13,626 upto the date of decree) and 6% interest from the date of decree till the date of realization. |
| 2 | AOP.No. 44/03 | Rs.88,02,723 (with 18% interest on 29,00,881/- upto the date of decree) and 6% interest from the date of decree till the date of realization |

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8. Aggrieved by the above, the department has filed CRP's before the Hon'ble High Court of A.P., Hyderabad. The Hon'ble High Court of A.P., Hyderabad while disposing of the above said CRP NOs. 169,170 of 2010 on 29.12.2009 and CRP NO. 531 of 2010 on 10.2.2010 has directed the respondents to approach the Principal Secretary of the Department concerned by filing appropriate applications within a period of three weeks. On filing which, the said authority shall make an effort to conciliate and settle the claims within a period of three months from the date of filing the application. In pursuance of these directions and on receipt of the representations from the Contractor, the matter has been referred to the Conciliation Committee concerned as constituted for the purpose, vide GO Rt. No. 103, I & CAD (ARB) Deptt., dated: 24.01.2008. The Committee has submitted its reports.

9. After examination of the Committee Reports, all the disputed claims have been negotiated with Smt B. Ratnalamma W/o Late Sri B. Subbarayudu, Contractor in the final Conciliation meeting held on 10.12.2012. During the meeting, Smt. B.Ratnalamma, W/o late Sri B. Subbarayudu Contractor has expressed her willingness to accept the lumpsum amount of Rs. 82,00,000/- (Rupees Eighty two lakhs only) as full and final settlement of all the claims including interest in respect of the OP NOs 42,43 and 44 of 2003. To this effect, Smt B. Ratnalamma W/o Late Sri B. Subbarayudu, Contractor, has given a declaration on a notarized affidavits, stating that she shall withdraw all legal proceedings in Hon'ble High Court of A.P., or in any other Courts, if the above amount paid to her in token settlement of the Arbitration cases pending in Courts after realization of accepted amount.

10. After careful examination of the entire matter, it has been decided to accept the claim offered by the Contractor. Accordingly, Government hereby accord sanction for an amount of Rs. 82,00,000/ (Rupees Eighty two lakhs only) including interest towards full and final settlement of all the claims of the Arbitration award dated 29.01.2001 in OP NOs. 42,43 and 44 of 2003 on the file of the Hon'ble Principal District Judge Court, Kadapa in respect of the three sub works relating to " Construction of Spillway including stilling basin from 37.625 M to 78.00 M of on left flank of Cheyyeru Project in Rajampet Mandal of Kadapa District entrusted to M/s Balaji Construction Company, vide Agt. No. 45, 46, 47/ SE/81-82, dated: 30.7.1998, subject to condition that Smt B. Ratnalamma W/o Late Sri B. Subbarayudu, Contractor should withdraw all legal proceedings pending in the Courts in respect of the above said works against the Government or its representative officer, after realization of the sanctioned amount.

11. The expenditure sanctioned in para (10) above shall be debit to the detailed Head of Account under " 4701 – COL – Major and Medium Irrigation – 03- M. Irrigation – Commercial – 137 – Cheyyeru (Annamayya) Project –SH26 - D&A – 530/531 – OE – Charged"

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12. The Chief Engineer, Medium Irrigation, Hyderabad / Chief Engineer (Projects), Kadapa is directed to deposit the above sanctioned decretal amount, to the credit of OP No's 42,43,44 of 2003 on the file of the Principal District Judge Court, Kadapa for avoiding further legal complications in the matter. He is also directed to instruct the disbursing officer concerned to obtain a declaration from the above Contractor accepting the amount as full and final settlement of her claims before depositing the above sanctioned amount in the respective Court.

13. This order issues with the Concurrence of the Finance (Expr.PW-1) Department vide their U.O. No.15925/412//Expr.PW (I) /13, dated 17.06.2013.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

B. ARAVINDA REDDY
SPECIAL CHIEF SECRETARY TO GOVERNMENT (FAC)

To

The Chief Engineer, Medium Irrigation, Hyderabad,.

The Chief Engineer (Projects), Kadapa.

The Superintending Engineer , Irrigation Circle, Kadapa

The Accountant General, A.P Hyderabad

The District Treasury Officer, Kadapa

The Pay and Accounts Officer ,Kadapa

Smt. B. Ratnalamma W/o late Sri. B. Subbarayudu

D.No. 3/1411, Holmospet Proddutur,Kadapa District

Copy to

The G.P for Arbitration, High Court of A.P Hyderabad

The Law (B) Department

The Finance (Exp.PW) Department.

The I & CAD (P&B) Department with a request to release LoC/authorization
for the expenditure sanctioned above.

The P.S to Spl. Secretary to C.M

The PS to Minister (M&MI)

The PS to Spl. Chief Secretary (FAC), I & CAD Department

SF/SC.

//FORWARDED:: BY ORDER//

SECTION OFFICER